

The Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

STORMANS, INCORPORATED doing  
business as RALPH'S THRIFTWAY, et al.,

Plaintiffs,

v.

MARY SELECKY, Secretary of the  
Washington State Department of Health, et  
al.,

Defendants.

Case No. C07-5374-RBL

STIPULATION AND ORDER GRANTING  
DEFENDANTS' AND DEFENDANT-  
INTERVENORS' JOINT MOTION FOR  
STAY OF PROCEEDINGS PENDING  
DECISION BY THE NINTH CIRCUIT  
COURT OF APPEALS

This matter having come before the Court on Defendants' and Defendant-Intervenors' joint Motion for Stay of Proceedings Pending Decision by the Ninth Circuit Court of Appeals, and the Court having reviewed the papers filed by the parties, the record in this action, and any other pleadings and argument of the parties relevant to the issues raised therein, and the Court having asked the parties as a condition to entering the stay to reach an agreement on certain limitations in the event the Ninth Circuit Court of Appeals reverses the Order Granting Preliminary Injunction and vacates the preliminary injunction, and the parties having reached such an agreement as set forth below;

[PROPOSED] STIPULATION AND ORDER  
GRANTING DEFENDANTS' AND  
DEFENDANT-INTERVENORS' JOINT MOTION  
FOR STAY OF PROCEEDINGS PENDING  
DECISION BY THE NINTH CIRCUIT COURT  
OF APPEALS - 1

\*110505 (13438.00) (C07-5374 RBL)

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1 IT IS HEREBY ORDERED THAT Defendants' and Defendant-Intervenors' Motion  
2 for Stay is GRANTED. All currently pending trial and pre-trial dates and Case Schedule  
3 deadlines, including the deadline for submission of dispositive motions, are vacated, but only  
4 to the extent not already passed and except as to pending discovery issues and any discovery  
5 that the Court may order. Within ten days after the Ninth Circuit issues its mandate in this  
6 case, the Court will hold a status conference to re-set the trial and other pre-trial dates,  
7 including the deadline for submission of dispositive motions.

8 IT IS HEREBY FURTHER ORDERED THAT as a condition of granting the stay and  
9 in the event the Ninth Circuit Court of Appeals reverses the Order Granting Preliminary  
10 Injunction and vacates the preliminary injunction, the State Defendants agree that they will  
11 not enforce WAC 246-863-095(4)(d) or WAC 246-869-010(4)(d) against any pharmacy  
12 which, or pharmacist who, refuses to dispense Plan B but instead immediately refers the  
13 patient either to the nearest source of Plan B or to a nearby source for Plan B pending trial.

14 IT IS HEREBY FURTHER ORDERED THAT as a condition of granting the stay and  
15 in the event the Ninth Circuit Court of Appeals reverses the Order Granting Preliminary  
16 Injunction and vacates the preliminary injunction, the State Defendants agree that they will  
17 notify the Court if a complaint is received alleging a failure of any licensed pharmacy to  
18 timely deliver Plan B in violation of WAC 246-869-010, or that any licensed pharmacy or  
19 pharmacist has not complied with WAC 246-869-010 (4)(d) or 246-863-095 (4)(d), and the  
20 Court will conduct a telephone conference to decide what steps, if any, may be taken by the  
21 State Defendants with respect to investigating the complaint, and this will occur with each and  
22

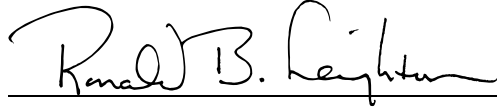
23 [PROPOSED] STIPULATION AND ORDER  
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every such complaint received by the State Defendants until otherwise ordered by the Court  
or until after a trial on the merits has concluded.

Dated this 4<sup>th</sup> day of March, 2009.



RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE

AGREED TO BY:

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